1765.

SUPREME COURT OF THE UNITED STATES.

No. 216.

RUEL C. GRIDLEY, CLARISSA H. BEEBE, SARAH P. SNYDER, AND CHARLES SNYDER ET AL., APP'TS,

vs.

EDWIN S. WESTBROOK AND JAMES P. GUAGER.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF IOWA.

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GIDEON, Print.

[3] UNITED STATES OF AMERICA,
District of Iowa.

In the district court of the United States for the district of Iowa, northern division, the following proceedings were had, to wit:

Proceedings removed from the district court of Jackson county, Iowa, and filed in said United States district court on the third of March, 1857.

Copy of Notice.

To Ruel Gridley the son, and Clarrissa Beebee and Phœbe, the daughters, heirs of Sarah A. Blakely, deceased, and all unknown persons interested in the estate of said deceased, and Margaret Wells and Daniel McCoy:

You, and each of you, are hereby notified that there is now on file in the office of the clerk of the district court of Jackson county, Iowa, the petition of Edwin M. Westbrook to quiet his title to certain land lying in said county, and which said lands were by mistake defectively conveyed by said Blakely in her lifetime, and that unless you appear and answer thereto, on or before the second day of the next term of said district court, which term commences on the fourth Monday of April, A. D. 1856, the said petition, and matters and things therein set forth, will be taken as confessed, and a decree entered accordingly.

Dated this 23d day of Feb., 1856.

F. BANGS,
Attorney for Petitioner.

[4] Endorsed: Came to hand Feb. 23d, 1856.
JOSHUA SEAMANDS,
Sh'ff J. Co.

The within named Ruel Gridley, Clarrissa Beebee, and Phœbe, heirs of said Blakely, dec'd, *is* not found in my county.

April 18th, 1856.
Fees 1 05.

JOSHUA SEAMANDS,
Sh'ff of J. Co.

Copy of Petition.

To the District Court of Jackson County, Iowa:

Your petitioner, Edwin M. Westbrook, claims of the defendants, Ruel Gridley, the son, and Clarrissa Beebee and Phœbe, daughters, heirs of Sarah A. Blakely, deceased, and all unknown persons interested in the estate of said deceased, and Margaret Wells and Daniel McCoy, the relief hereinafter mentioned, and for cause of such

claim states, that heretofore, to wit, on or about the year 1846, Sarah A. Blakely, of Hannibal, Missouri, now deceased, executed a power of attorney to Wm. B. Beebee, a copy of which said power of attorney is hereto annexed marked "A," and asked to be made a part of this petition; that afterwards, to wit, about the year 1847, said Blakely executed another power of attorney to said Beebee, similar in all respects to said power marked "A," but which said last mentioned power of att'y conferred further and additional powers upon said Beebee, to wit: authorizing and empowering him, said Beebee, to buy and sell real estate generally for and in the name and as the attorney of said Sarah A. Blakely: that your petitioner is unable to present a copy of said last mentioned power of attorney for reasons hereinafter mentioned; that by virtue of said last mentioned power of attorney, said Beebee, as attorney as aforesaid for said Blakely, purchased for said Blakely from F. Smith the following described lands, to wit: the northeast quarter of the southeast quarter of section twenty-three, township eighty-four N.,
[5] range six (6) east, of the fifth p. m., containing forty acres, more or less; also the northeast quarter of the northeast quarter of section twenty-three, township eighty-four N., range six (6) east, of fifth p. m.; all said lands lying and being in Jackson county, Iowa; that afterwards, to wit, on or about the first day of March, 1850, said Sarah A. Blakely, by her attorney, W. B. Beebee, as aforesaid, conveyed by deed the following described lands to Margaret Wells, of Jackson county, Iowa, to wit: the northeast quarter of the southeast quarter of section twenty-three, township eighty-four N., range six (6) east, of the fifth p. m.; also the northeast quarter of the northeast quarter of section twenty-three, township eighty-four, in range six (6) E., of 5th p. m. And it was stipulated and agreed upon in said deed, that said deed should only convey the title to thirty acres of the last described lot of land, and said grantor in said deed reserved ten acres from said last mentioned lot of land, to be divided as follows: commencing at the northwest corner of said lot, measuring due south forty rods; thence due east forty rods, thence due north forty rods, thence due west forty rods to the place of beginning, containing ten acres, a copy of which said last mentioned deed is hereunto annexed, marked "B," and asked to be made a part of this petition. And your petitioner also asks that said Margaret Wells may be made a party to this petition. And your petitioner further saith, that immediately previous to the execution of the deed last aforesaid by the said Blakely to the said Wells as aforesaid, the said Wells, by her agent or attorney, searched the records in the office of the recorder of deeds of Jackson county, Iowa, to ascertain whether the power of att'y last aforesaid mentioned was on record in the office of said recorder; that said Wells, by her agent as aforesaid, discovered upon record the power of att'y first aforesaid mentioned; and sup-

posing and believing by mistake that it was the power of
[6] att'y last aforesaid mentioned; and the said Beebee believing said last mentioned power to be on record as aforesaid, and so stating to the said Wells, she, the said Wells, was induced to believe, and did, the fact so to be; and said Wells, in consequence thereof, received from said Blakely, by her attorney as aforesaid, the deed so as aforesaid marked "B;" that afterwards, to wit, on or about the 20th day of December, 1852, the said Margaret Wells conveyed by deed the land last aforesaid mentioned and described, to Daniel McCoy, a copy of which said last mentioned deed is hereunto annexed, marked "C," and asked to be made a part of this petition. Petitioner also asks that said Daniel McCoy may be made a party to this petition. Petitioner fourther saith, that afterwards, to wit, on the 25th day of February, 1853, said Daniel McCoy conveyed the land last aforesaid mentioned by deed to your petitioner, a copy of which said deed is hereunto annexed, marked "D," and asked to be made a part of this petition. That all of said deeds have been recorded in the office of the recorder of deeds in said Jackson county, Iowa; that previous to the execution of the last mentioned deed by McCoy to your petitioner, your petitioner was informed by said McCoy, who was the agent of the said Wells in searching the record as aforesaid, and also by said Beebee, that the power of att'y last aforesaid mentioned was on record in said Jackson county; and your petitioner, putting confidence in their statements, was induced to believe and did believe the fact so to be. But your petitioner saith, that the said McCoy and the said Beebee were mistaken in their representations touching the recording of the last aforesaid power of att'y, and that said power of att'y was not then and never has been upon record in said Jackson county, Iowa. Petitioner saith that the said Sarah A. Blakely was thrice married, and is now deceased; that at the time she executed said powers of att'y she put the name of her
[7] last husband, R. W. Blakely; that the said Sarah left three children and heirs, to wit: Ruel Gridly, her son by one of her former husbands; Clarrissa, who was married to said Beebee, and is now deceased [divorced] from him; and Phœbe, whose surname your petitioner does not know, and therefore describes her as the daughter of the said Sarah A. Blakely; that the said Ruel Gridley when last heard from was in California, but in what place your petitioner does not know; that the other heirs, to wit, the said Clarrissa Beebee and the said Phœbe, when last heard from were in Hannibal, Mo. Neither does your petitioner know whether the said Clarissa and Phœbe are now married. He therefore asks that the said Ruel Gridley and the said Clarrissa and Phœbe, and all others unknown, having an interest in the estate of the said Sarah A. Blakely, deceased, may be made parties to this petition. Petitioner saith, that he is informed and believes, and so

states, that said last mentioned power of att'y is in the hands of the said Clarrissa; that the said Clarrissa wrongfully and fraudulently obtained possession of the same, and has refused and still does refuse to give up the same to your petitioner, or to have the same put upon record in said Jackson county. Petitioner therefore asks that the said Clarrissa Beebee may be ordered to give up the power of att'y last aforesaid mentioned to your petitioner, to be placed upon the records of said Jackson county; or that the said Ruel Gridley, Clarrissa Beebee, and Phœbe, and all unknown persons having an interest in the estate of the said Sarah A. Blakely, deceased, may be ordered and adjudged and decreed to convey their said interest to your petitioner; and that in default thereof, the decree therefor be taken and accepted as a performance of the same. And your petitioner asks for such other and further relief meet and proper.

F. BANGS,
Att'y for Petitioner.

Endorsed: Filed Feb. 23d, 1856.

J. M. BRAKEY, *Clerk.*

[8] "*Exhibit A.*"

Know all men by these presents, that Sarah Ann Blakely, of Hannibal, of Missouri, consideration of my love and affection for my daughter, Clarrissa Beebe, and to provide for her future support and welfare, reposing full confidence in the integrity and business capacity of her husband, William B. Beebe, I do hereby make public and appoint the said William B. Beebe to be my legal and authorized agent and attorney in fact for the following purposes, as hereafter written, viz: to purchase, for and on my account, in Iowa Territory, two hundred acres of good farming land, as his judgment may decide, together with all the necessary farming tools, teams, and other appurtenances for the same, with as much stock of cattle, horses, sheep, hogs, and other animals, as he, the said Beebe, may deem necessary and expedient for the profit and support of the said Clarrissa and her heirs; and that the said W. B. Beebe is hereby authorized by these presents to conduct, cultivate, and manage said land when purchased, as to him may seem most conducive for the best interests of the said Clarrissa; and to bargain and sell or exchange the proceeds of said land and stock for her, the said Clarrissa's, benefit, and to pay her the proceeds of the same, after deducting the necessary expenses. And the said W. B. Beebe is hereby authorized and empowered to bring suits in my name, for the recovery of debt or in defence of said business, as above written, should it hereafter become necessary for him to do so for the protection and security of said property, as above writ-

ten. As witness my hand and seal, this fifth day of September, A. D. 1846.

SARAH A. BLAKELY.

Witnessed by—
HENRY AMOS,
B. E. TOWNSEND.

Recorded Sept. 20, 1846.

J. RICE, *Recorder.*

[9] STATE OF MISSOURI,
County of Marion, ss.

Be it remembered, that Sarah A. Blakely, who is personally known to the undersigned justice of the peace to be the same person whose name is subscribed to the foregoing deed as a party thereto, this day appeared before me, at the county of Marion aforesaid, and acknowledged that she executed the said deed voluntarily, for the uses and purposes therein expressed.

In witness whereof I have hereunto set my hand and seal, this 30th day of Oct., A. D. 1846.

JAS. T. McCULLINGT. [SEAL.]

STATE OF MISSOURI,
County of Marion, ss.

I, Thomas E. Thatcha, clerk of the county court within and for said county of Marion, do hereby certify that Jas. T. McCullingt, esquire, whose name appears to the above and foregoing certificate, is now, and was at the time of making the same, an acting justice of the peace in the county aforesaid, duly commissioned and qualified according to law, and that full faith and credit are due to all his official acts as such.

In testimony whereof, I have hereunto set my hand and annexed my official seal. Done at office in Palmyra, in said county, this 31st day of October, A. D. 1846.

THOMAS E. THATCHA,
Clerk.

Recorded Jan'y 4th, 1847, book B, page 136.

J. RICE, *Recorder.*

Copy of Deed referred to as marked "B."

This indenture, made the first day of March, in the year of our Lord eighteen hundred and fifty, between Sarah A. Blakely, of Hannibal, Missouri, and Margaret Wells, of Iowa, witness-
[10] eth: that the said party of the first , for and in consideration of the sum of four hundred dollars to her in hand paid by the said party of the second part, the receipt of the same is hereby acknowledged, have granted, bargained, sold, released

and confirmed, and by these presents do grant, bargain, sell, release and convey, unto the said party of the second , to her heirs and assigns forever, the following lots of land, to wit, being situated in Union township, Jackson county, State of Iowa, being the northeast quarter of the southeast quarter of section twenty-three, in township (84) north, of range 6 east, of the fifth p. m., containing forty acres, more or less; also, the northeast quarter of the northeast quarter of section (23), in township 84 north, of range 6 east, of the fifth principal meridian. Said last described lots contain forty acres. And it is fully understood and agreed by these presents, that this deed only conveys the title to thirty acres of said last described lots, to be divided from said lots last mentioned; and the party of the first part reserves ten acres from said lots of land, to be divided as follows: commencing at the northwest corner of said lot, measuring due south forty rods; thence due east forty rods; thence due north forty rods; thence due west to the place of beginning—containing ten acres; which ten acres of ground having been previously sold and deeded to William McCoy, the same is reserved for this deed, together with all and singular the hereditaments and appurtenances thereunto belonging, and all the estate, right, title and interest of the said party of the first part, either in law or equity, to the above bargained and sold premises: to have and to hold said lots of land as above described, with the hereditaments and appurtenances, unto the said party of the second part, and to her heirs and assigns forever; and the said party of the first part, for her heirs and assigns, doth covenant and agree with the party of the second part, his heirs and assigns, that she is
[11] lawfully seized of the above premises; that the same are free and clear from all incumbrances; and that she will forever warrant and defend the same against all persons whomsoever.

In testimony whereof, the said party of the first part hath hereunto set her hand and seal, this day and year first above written.

SARAH A. BLAKELY. [SEAL.]
By her Agent in fact, W. B. BEEBE.

Sealed and delivered in presence of—
CHAUNCEY S. FERGUSON,
DANIEL MCCOY.

STATE OF IOWA,
Jackson County, ss.

Be it remembered, that on the tenth day of February, A. D. 1851, personally came before me the above named W. B. Beebe, agent in fact as above appears to me, known to be the person who executed the said deed, and acknowledged the same to be his free act, a deed for the uses and purposes therein mentioned.

Given under my hand this 10th day of February, A. D. 1851.

CHAUNCEY S. FERGUSON,
Justice of the Peace.

Recorded February 19th, 1851, book E, pages 292 and 293.

J. H. SMITH, *Recorder.*

Copy of Deed referred to as marked "C."

Know all men by these presents, that Margaret Wells, of Jackson county, State of Iowa, in consideration of the sum of four hundred and fifty dollars in hand paid by Daniel McCoy, of Jackson county, State of Iowa, do hereby sell and convey unto the said Daniel McCoy the following described premises, to wit: the northeast quarter of the southeast quarter of section twenty-three
[12] (23), in township (84) north, of range six east, of the fifth principal meridian, containing forty acres; also the northeast quarter of the northeast quarter of section twenty-three (23), in township eighty-four north, of range six east, of the fifth (5) principal meridian, said last described lot containing forty acres; and it is fully understood and agreed by these presents, that this deed only conveys the title to thirty acres of said last described lots, to be divided from said last lot mentioned, and the party of the first part reserved ten (10) acres from said lot of land to be divided as follows: commencing at the northwest corner of said lot, measuring due south forty rods; thence due east forty rods; thence due north forty rods; thence due west forty rods to the place of beginning—containing ten (10) acres, which has been previously deeded to Wm. McCoy; and I do hereby covenant with the said Daniel McCoy, that I am lawfully seized of said premises; that they are free from incumbrance; that I have good right and lawful authority to sell and convey the same, and I do hereby covenant to warrant and defend the said premises against the lawful claims of all persons whomsoever.

Signed this 20th day of December, A. D. 1852.

MARGARET her ✕ mark. WELLS.

In presence of—
ISRAEL DAY,
JAMES WESTBROOK.

STATE OF IOWA, *Jackson County, ss.*

On this 20th day of December, 1852, before me, Israel Day, an acting justice of the peace, in and for said county, personally came Margaret Wells, to be known to be the identical person whose name is affixed to the above deed as grantor, and acknow-
[13] ledged the same to be her voluntary act and deed.

Given under my hand this 20th day of December, A. D. 1852.

ISRAEL DAY, *Justice of the Peace.*

Recorded January 13th, 1854, in book J, pages 251 and 252.
JNO. POPE, *Recorder.*

Copy of Deed referred to as marked "D."

Know all men by these presents, that I, Daniel McCoy, of Jackson county, State of Iowa, in consideration of the sum of five hundred ($500) dollars in hand paid by E. M. Westbrook, of Jackson county, State of Iowa, do hereby sell and convey unto the said E. M. Westbrook the following described premises, to wit: lying and being situated in the county and State aforesaid, being the northeast quarter (¼) of southeast quarter (¼) of section 23, in township 84 north, of range 6 east, 5th p. m., containing 40 acres more or less; also the northeast (¼) quarter of the northeast quarter (¼) of section 23, in same township and range. Said last described lot contains 40 acres. And it is fully understood and agreed that this deed only conveys 30 acres, or that ten acres of said land is not conveyed by this deed, to wit: commencing at the northwest corner of section 23; running thence south 40 rods; thence east 40 rods; thence north 40 rods; thence west 40 rods to the place of beginning—containing 10 acres; the same having been conveyed to William McCoy; and I do hereby covenant with the said E. M. Westbrook, that I am lawfully seized of said premises; that they are free from incumbrances; that I have good right and lawful authority to sell and convey the same, and I do
[14] hereby covenant to warrant and defend the said premises against the lawful claims of all persons whomsoever.

Signed this 25th day of February, A. D. 1853.

DANIEL McCOY.

In presence of—
ISRAEL DAY,
J. C. DAY.

STATE OF IOWA, *Jackson County, ss.*

On this 23d day of February, A. D. 1853, before me, Israel Day, a justice of peace in and for said county, personally came Daniel McCoy, to me known to be the identical person whose name is affixed to the above deed, as grantor, and acknowledged the same to be his voluntary act and deed.

Given under my hand this 25th day of February, 1853.

ISRAEL DAY,
Justice of the Peace.

Recorded Jan. 14th, 1854, in book J. pages 252 and 3.
JOHN POPE, *Recorder.*

Petition. Chancery. Filed February 23d, 1856.
J. W. BRAKEY, *Clerk.*

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Answer of the Defendants.

State of Iowa—District Court.

EDWIN M. WESTBROOK
vs.
RUEL GRIDLEY, CLARRISSA H. BEEBE, Sarah P. Snyder and Charles Snyder, impleaded with Wells and Daniel McCoy.

Now comes the said Ruel Gridley, Clarrissa H. Beebe, Sarah P. Snyder, and Charles Snyder, her husband, and for answer to the said petition of Edwin Westbrook, say: that they have no knowledge of any such power of attorney as that set forth in the
[15] petition from Sarah A. Blakely to William B. Beebe, which is said to have been executed in 1846; and they deny that she executed or had any legal capacity to execute such a power of attorney as would enable an attorney to convey away her real estate, unless her husband joined in it. She was then a married, and continued to be a married, woman to the day of her death, which occurred December, 1850. The defendants deny that after 1846, to wit, 1847, or at any other time, the said Sarah Ann Blakely executed another power of attorney in all respects like the one referred to in the said bill marked "A;" deny that any such power of attorney conferred further and additional power on said Beebe to buy and sell real estate for and in the name and as the attorney of said Sarah A. They deny that by virtue of said last mentioned power of attorney said Beebe, as her attorney, purchased from Francis Smith the northeast quarter of the southeast quarter, and the northeast quarter of the northeast quarter of section twenty-three (23), in township eighty-four (84) north, range six (6) east; but they admit that Sarah Ann Blakely had title to said tract of land at the time of her death; they deny on or about the first of March, 1850, the said Sarah Ann Blakely conveyed, by her attorney, William B. Beebe, the aforesaid lands to Margaret Wells, except ten acres land off in a square in the northwest corner of the *the* northeast quarter of the said northeast quarter of section twenty-three. They say that at that time she was a married woman; that her husband survived her, and at the date of the acknowledgment of said deed and the delivery thereof she had departed this life.

These defendants deny that Margaret Wells, before the delivery of said deed, searched or caused to be searched the records of Jackson county, and if she made any mistake as to the contents of said records, that she can have any relief for her carelessness; as to the belief of said Beebe, these defendants deny it, or that it would
[16] be material if true. They admit the deeds from Wells to

McKoy, and McKoy to the plaintiff, to be properly set forth, but say they conferred no title on the plaintiff. These defendants say that McCoy and Beebe's information and belief about the record of Jackson county are not material; deny that the information said to be given was given; if the plaintiff, whose vendors chose to rely on statements as to the contents of the record, which are not true, he has no remedy against the defendants. They deny that Sarah Ann Blakely ever executed any power of attorney to Wm. B. Beebe which would enable him to convey away her real estate, or that he conveyed away this particular estate prior to her death. They say that said Sarah Ann Blakely, from 1846 to the time of her death, which occurred in March, 1850, was a married woman, and during that time executed no power of attorney in which her husband joined, authorizing any person to convey her real estate. They say that at the time of her death she left as her sole heirs Ruel Gridley, a son, Clarrissa H. Beebe and Sarah P. Gridley, who has since married the aforesaid Charles Snyder. They deny that any of them had *where* any knowledge of any such power of attorney as is set forth executed in 1847. They deny that Clarrissa H. Beebe wrongfully and fraudulently obtained possession of the same. They deny that she refused or still refused to give the same to the plaintiff, or to have the same put upon the records of Jackson county.

And said Ruel Gridley, Clarrissa H. Beebe, Sarah P. Snyder, heirs of Sarah Ann Blakely, deceased, and Charles Snyder, husband of said Sarah P. Snyder, having answered the plaintiff's petition, ask relief, and say that Ruel Gridley is a citizen of California, and the other parties, heirs and husband, are citizens of the State of Missouri, and said Edwin P. Westbrook, Margaret Wells, and Daniel McCoy are citizens of the State of Iowa.

[17] That said Sarah Ann Blakely, at the time of her death, was seized in her own right of the northeast quarter of the southeast quarter, and the northeast quarter of the northeast quarter of section twenty-three, in township eighty-four north, range six east. That said Gridley, C. H. Beebe, and Sarah P. Snyder, as her heirs, are entitled to the possession and enjoyment thereof, without let or hindrance; that said property, exclusive of ten acres in the northeast corner of the last named tract, is of the value of five hundred dollars. That said Edwin M. Westbrook pretends that said Sarah A. Blakely conveyed away the same in her lifetime; he pretends that he or those under him are entitled to the possession thereof. He has brought a suit against these defendants to establish and quiet his title to the same, which suit is now pending in the Jackson county district court on the equity side thereof. They say that one P. Gage, of Illinois, claims the title as a purchaser from Westbrook; all which is contrary to equity. These defendants pray that said Westbrook and all others claim-

ing under may be enjoined from prosecuting said suit, and from committing any waste on said premises; that his pretended title, and their claiming under him, may be given up to be cancelled; they be and they may be decreed to restore to them the possession of said property; that an account be taken of the rents and profits during the time the same has been occupied by said Westbrook; and that they may have such other and further relief as the nature of their cause may require.

RUEL GRIDLEY,
CLARRISSA H. BEEBE,
SARAH P. SNYDER, and
CHARLES SNYDER, her husband.
By WHITAKER & GRANT, *Attorneys.*

Filed Sept. 11th, 1856.

J. M. BRAKEY, *Clerk.*

[18] UNITED STATES OF AMERICA,
State of Iowa, Jackson County.

To the Judge of the District Court of the county of Jackson:

Your petitioner, Ruel Gridley, who avers that he is a citizen of the State of California, Clarrissa H. Beebe, who avers that she is a citizen of the State of Missouri, and Sarah P. Snyder, and Charles Snyder, her husband, who avers that they are citizens of the State of Missouri, come and give this court to be informed: Edwin M. Westbrook has filed his bill in equity against them and Margaret Wells and Daniel McCoy, on the chancery side of the Jackson district court, praying for certain relief against them in relation to the northeast quarter of the southeast quarter and the northeast quarter of the northeast quarter of section twenty-three (23), in township eighty-four north, range six east, in Jackson county, except ten acres in the northeast corner of the last named tract.

That said land and the matter in controversy are of the value of five hundred dollars and upwards; that said Margaret Wells and Daniel McCoy are nominal parties, no relief being asked of them; that said Edwin M. Westbrook is a citizen of the State of Iowa, and they pray that said cause may be transferred to the district court of Iowa for the United States, which is held at Dubuque, within which district is the county of Jackson, and which court, they are informed, has jurisdiction of this suit.

RUEL GRIDLEY,
CLARRISSA H. BEEBE,
SARAH P. SNYDER, and
CHARLES SNYDER.
By WHITAKER & GRANT,
Their Att'ys.

[19] STATE OF IOWA, *Jackson County.*

James Grant, being sworn, states that he is counsel for the

above named petitioner; that he is informed and believes that the facts stated in their said petition are true.

JAMES GRANT.

Sworn to before me, this 10th Sept., 1856.

J. M. BRAKEY, *Clerk.*

Filed Sept. 10th, 1856.

J. M. BRAKEY, *Clerk.*

In the District Court of Jackson county, Iowa—April Term, 1856.

EDWIN M. WESTBROOK
vs.
RUEL GRIDLEY et al.

We, the undersigned, are held and firmly bound unto John M. Brakey, clerk of said , for the costs in the above entitled cause, in accordance with the sections 2527 and 2528 of the code upon the termination of the suit.

EDWIN M. WESTBROOK,
By F. BANGS, *his Att'y.*
F. BANGS.

Approved by me, this 23d Feb., 1856.

J. M. BRAKEY.

To Ruel Gridley, Clarrissa Beebe, and Phœbe, heirs of Sarah A. Blakey, deceased, Margaret Wells and Daniel McCoy:

By order of the district court of Jackson county, Iowa, made at the April term thereof, A. D. 1856, you and each of you are hereby notified that there is now *in* file in the office of the clerk of said court, the petition of Edwin M. Westbrook to quit his title to certain lands described in said petition, and which said lands were, by mistake, defectively conveyed and transferred by said Blakely in her lifetime, and that unless you appear and answer
[20] thereto on or before the second day of the next term of said district court, which term commences on the second Monday of September, A. D. 1856, the said petition and the matters and things therein set forth will be taken as confessed, and a decree entered according.

J. M. BRAKEY, *Clerk.*

BANGS, *Att'y.*

STATE OF IOWA,
Jackson County.

R. C. Andrews, being duly sworn, on oath says the above notice was published in the Bellevue Republican, a newspaper published in the said county, for four consecutive weeks, commencing July 2d, A. D. 1856.

R. C. ANDREWS.

Subscribed and sworn to before me, this 6th day of September, A. D. 1856.

J. M. BRAKEY, *Cl'k.*

Filed Sept. 6, A. D. 1856.

J. M. BRAKEY, *Cl'k.*

Record Entry.—September Term, 1856.

EDWIN M. WESTBROOK
vs.
RUEL GRIDLEY et al.

This day comes the plaintiff and asks leave to make James P. Guager, a citizen of Jackson county, a co-plaintiff, which allowed.

EDWIN M. WESTBROOK and JAMES P. GUAGER
vs.
RUEL GRIDLEY et al.

This day comes Ruel Gridley, Clarrissa H. Beebe, Sarah P. Snyder, and Charles Snyder, her husband, and filed a petition and affidavit to transfer this cause to the district court of the United States for the district of Iowa, held at Dubuque, and the court, on hearing petition, being satisfied that the causes for said re-
[21] moval are true, doth order and adjudge that this cause be transferred to said district court of the United States for the district of Iowa, at Dubuque, and that the clerk of this court send certified copies of the papers in this cause to the clerk of said court at Dubuque.

STATE OF IOWA,
Jackson County.

I, J. M. Brakey, clerk of the district court of said county, do hereby certify that the foregoing is a true and correct copy of the original papers on file in my office in said cause.

Given under my hand and seal of said court, at Bellevue, this 4th day of October, 1856.

[L. S.]

J. M. BRAKEY, *Clerk.*

Fees in dist. court of J. C..... $8 00
Fees for copy and cr..... 6 45

Endorsed: Filed 3d March, 1857.

T. S. PARVIN, *Clerk.*
By JAMES M. McKINLEY,
His Deputy.

And on the 3d of March, 1857, the following cross-bill was filed in said U. S. district court, to wit:

UNITED STATES OF AMERICA,
State and District of Iowa.

To the Honorable James M. Love, judge of the district of Iowa, in chancery sitting:

Your petitioners, Ruel C. Gridley, Clarrissa H. Beebe, Sarah P. Schneider, and Charles Schneider her husband, respectfully show:

That said Ruel C. Gridley, Clarrissa H. Beebe, and Sarah P. Schneider, are the sole heirs-at-law of Sarah Ann Blakely, formerly of Hannibal, State of Missouri.

That Edwin M. Westbrook, on the 23d of February, 1856, exhibited his bill in the district court of Jackson county, Iowa, against the said heirs of Sarah Ann Blakely, claiming that
[22] said Sarah Ann Blakely, in her lifetime, by one Wm. B. Beebe, whom they pretend was her attorney, conveyed by deed of warranty to one Margaret Wells, all the northeast quarter of the southeast quarter of section twenty-three, and thirty acres off of the south end of the northeast quarter of the northeast of said section twenty-three (23), reserving ten acres of said last named quarter, beginning at the northwest corner, thence due south forty rods, thence due east forty rods, thence due north forty rods, thence due west forty rods to the place of beginning, said section twenty-three being in township eighty four (84) north, range six (6) east.

Said Westbrook pretended that Margaret Wells conveyed said tract of land to Daniel McCoy, and that Daniel McCoy conveyed *conveyed* said tract of land to the said Edwin M. Westbrook, and in said bill said Westbrook pretended that said Wm. B. Beebe had a power of attorney from said Sarah Ann Blakely, she then being a married women, whereby she authorized said Beebe to convey said lands, and that said power of attorney was omitted to be recorded, and that the agent of Margaret Wells, who searched the records of Jackson, mistook another power of attorney for the one which he avers was not recorded, charging that the last named power of attorney was in the hands of Clarrissa H. Beebe wrongfully and fraudulently, and that she refused to give it up to be recorded; and praying that she be ordered to give it up to be recorded, and all persons interested decreed to convey their interest to said Edwin M. Westbrook.

And at the September term, 1856, of the Jackson county district court for the State of Iowa, your petitioners filed the proper affidavit and transferred said cause to this court; and said defendants have answered said bill, and said plaintiffs in that bill have made one James P. *Gage* a co-plaintiff therein.

And your petitioners aver that at the time when the said plaintiffs pretend that said Sarah Ann Blakely executed said
[23] power of attorney she was a married woman; that her hus-

band was no party thereto; that she died in December, 1850; and that she could not by the laws of Missouri or Iowa, either at the time said power of attorney is pretended to have been executed, make any valid conveyance of real estate without her husband's joining in such conveyance or power of attorney to make a conveyance.

Your petitioners aver that as the sole heirs of Sarah Ann Blakely they are entitled to the possession and enjoyment of said tracts of land without let or hindrance; that said deeds under which the plaintiffs claim are clouds upon your petitioners' title, all which is contrary to equity.

Your petitioners make Margaret Wells, Harriet McCoy, Edwin M. Westbrook, and James P. Guager, defendants to this cross-bill, and pray for a writ of subpœna against them, that they may be enjoined from prosecuting the aforesaid suit, and may account for any waste committed by them in the premises; that said pretended deeds to Wells, McCoy, Westbrook, and Guager, may be given up to be cancelled; that said Westbrook and Guager be decreed to surrender the possession of said tracts of land, and an account may be taken of the rents and profits during the time the said lands have been occupied by them. Your petitioners waive any answer of the defendants under oath.

Your petitioners pray for such other and further relief as the nature of their case may require.

JAMES GRANT.

Endorsed: Filed 3d March, 1857.
T. S. PARVIN, *Clerk.*
By JAMES M. McKINLEY,
His Deputy.

[24] *Subpœna.*

DISTRICT OF IOWA,
Northern Division.

In the name of the President of the United States. To Margaret Wells, Harriet McCoy, Edwin M. Westbrook, and James P. Guager, citizens of the State of Iowa:

You are hereby informed, that on this 3d day of March, 1857, there was filed in the office of the clerk of the district court of the United States for the district of Iowa, northern division, by Ruel C. Gridley, Clarrissa H. Beebe, Sarah P. Schneider, and Charles Schneider, a cross-bill in chancery relating to certain lands therein described, and praying that you be enjoined from prosecuting a certain suit therein mentioned; that certain deeds may be given up to be cancelled, and other relief.

And you are hereby commanded personally to be and appear before the said district court of the United States, in the city of

Dubuque, on the first Monday in July next—that is to say, on the first Monday of the next term to be held at Dubuque—and then and there answer or plead to said bill; otherwise default will be entered against you, and the cause be proceeded with ex parte.

Witness the Hon. J. M. Love, judge of said court, this third day of March, 1857, and 81st year of the independence of the United States.

Seal of court affixed.

T. S. PARVIN, *Clerk.* [L. S.]
By JAMES M. McKINLEY, *his Dep'y.*

This notice came to hand March 4th, 1857, and I served the same by reading it to the within named Edwin M. Westbrook and James P. *Gage*, this 16th day of April, 1857. No copy demanded.

The within named Margaret Wells and Harriet McCoy not found in my bailiwick.

SAMUEL SUMMERS,
U. S. Marshal.

Marshal's fees—

For service	$4 00
For mileage	3 36

[25] *Record Entries.*

Wednesday, 4 March, 1857.

EDWIN M. WESTBROOK
v. } 10.
RUEL C. GRIDLEY et al.

The attorneys for the parties not appearing, this cause was continued generally.

Tuesday, July 7th, 1857.

EDWIN M. WESTBROOK et al.
v. } 10. Transcript from State court.
RUEL C. GRIDLEY et al.

RUEL C. GRIDLEY et al.
v. } 14. In Chancery.
EDWIN M. WESTBROOK et al.

On this second day of the term comes James Grant, of counsel for Ruel C. Gridley et al., and moves the court here that these two cases be consolidated, which motion is sustained by the court; and it is ordered that said causes be consolidated.

RUEL C. GRIDLEY et al.
v. } 14. In Chancery.
E. M. WESTBROOK et al.

In this cause, which is consolidated with No. 10 upon the docket, it is ordered that the defendants in the cross-bill be ruled to answer

in thirty days, and def'ts notified that complainants will insist upon a hearing at the next term of this court, and the cause stands continued.

Answer to Cross-bill.

In U. S. District, State of Iowa.

RUELL C. GRIDLEY et al.
vs.
E. M. WESTBROOK et al.

And now comes E. M. Westbrook, by his att'y, W. T. Barker, and for answer to the cross-bill of complainant filed by the
[26] said complainants, says that he is unable to answer whether the said Ruel C. Gridley, Clarrissa H. Beebe, and Sarah P. Schneider are the sole heirs of Sarah Ann Blakely or not, and therefore requires proof of the same.

And for a further answer to the said cross-bill the said defendant says, that he is informed and believes that the purchase-money for the said lands, in said bill described, was in fact wholly furnished by the said William B. Beebe, and of right the said lands belonged to him, and he had good right to convey the same; that the title to the said lands *were* taken in the name of Sarah Ann Blakely as a matter of convenience to said Beebe, which fact has come to the knowledge of this defendant since the filing of his original bill in this cause. The defendant further says that he denies that Sarah Ann Blakely could not, at the time of making said power of attorney, execute a valid conveyance. The defendant denies that said complainants are entitled to the possession of said tracts of land; wherefore defendant prays judgment for his costs.

E. M. WESTBROOK.

Subscribed and sworn before me, this 4th day of Jan'y, 1858. Witness my hand and notarial seal at Dubuque.

JAMES BURT, [L. S.]
Notary Public, Dubuque Co.

Endorsed: Filed Jan'y 5th, 1858.

J. C. BURNS, *Clerk.*

Replication.

GRIDLEY & OTHERS
vs.
WESTBROOK et al.

U. S. D. C., Dubuque.—Replication.

The said plaintiffs for replication to said answer say that
[27] this bill is true, and the defendants answer untrue, and this they will aver and prove as this court may direct.

GRANT, *for Plaintiff, Cross.*

Endorsed: Filed Jan'y 6th, 1858.

J. C. BURNS, *Clerk.*

Agreement.

U. S. Dubuqe Dis. Court.

GRIDLEY and others
vs.
WESTBROOK and al. } Cross-bill.

It is admitted by the defendants in the cross-bill that the plaintiffs, Gridley, Beebe, and Sarah P. Schneider, are the heirs of Sarah Ann Blakely; that Charles Schneider is Sarah P.'s husband; that Sarah Ann Blakely at the time of executing all the papers mentioned in the bill, answer, and cross-bill, was a married woman, and died leaving her husband surviving.

And it is agreed that either party may use any evidence pertinent to this cause, which is competent evidence herein, that has been taken and is on file in the case of Wyant vs. Gridley and others, and pending in this court.

McKINLAY & BARKER,
For Def'ts in Cross-bill and Complainants in Original Bill.
JAMES GRANT,
For Def'ts in Bill and Plaintiff in Cross-bill.

Endorsed: Filed Jan'y 6th, 1858.

J. C. BURNS, *Clerk.*

Record Entries.

6 January, 1858.

E. M. WESTBROOK et al.
v.
RUEL C. GRIDLEY et al. } 10 & 14.

[28] This cause comes on to be heard; the said Westbrook appears by Barker, his solicitor, assisted by McKinlay, and the defendants by Grant, their solicitor; and the cause is argued on the pleadings, evidence, and admissions of counsel; and thereupon the court doth take the same under advisement, and the cause is continued. And by consent of parties, on motion of said Grant, it is ordered by the court that the plaintiffs, and all persons claiming title by, through, or under them, be enjoined from cutting timber or otherwise committing waste on the lands in controversy until further order.

Wednesday, July 7th, 1858.

EDWIN M. WESTBROOK et al.
v.
RUEL C. GRIDLEY et al. } 10 & 14. Chancery.

This cause coming on now to be heard, and the court not being sufficiently advised in the premises, doth appoint Enoch A. Wood,

of Sabula, a special master to inquire and report to this court what consideration Edwin M. Westbrook et al. paid for the land in dispute, and to whom said consideration was paid; second, what improvements said E. M. Westbrook et al. have placed on said premises, and what is the present value thereof; third, what has been the yearly value of the rents and profits of said land said E. M. Westbrook et al. have possession of, and what waste (if any) has been committed by them thereon; and that he take evidence thereon, and report to the judge of this court in sixty days from this date; and that the said master report the testimony showing to whom said money was paid.

Paper filed by Parties.

In District Court of the United States for the district of Iowa.

E. M. WESTBROOK et al.
v.
RUEL C. GRIDLEY et al.

It is agreed that no report need be made by the master in said case. The court is requested to decide upon the case as it now appears.

JAS. GRANT, *for Gridley et al.*
SMITH, McKINLAY & POOR,
For Westbrook et al.

[29] *Record Entry.*

January, 1859.

EDWIN M. WESTBROOK et al.
v.
RUEL C. GRIDLEY et al.
10 & 14.

This cause was submitted at a former term, and the court having now fully considered the same, doth order, adjudge, and decree as follows, viz:

That the defendants, Ruel C. Gridley, Clarisa H. Beebe, Sarah P. Schneider, and Charles Schneider, shall execute to said Margaret Wells, under whom Westbrook derives title, a conveyance of all title and claim they may have in and to the lands described in the bill, to wit: the northeast quarter of southeast quarter of section twenty-three, in township eighty-four north, of range six east, of fifth principal meridian; also the northeast quarter of northeast quarter of said section twenty-three, except ten acres in a square form in the northwest corner thereof. And if they fail to execute such deed, then that this decree stand in lieu thereof; and said defendants, Gridley, Beebe, Schnieder, and Schneider, are perpetually enjoined from setting up any claim or title to the seventy acres of land above described because of any of the facts alleged by

them in their pleadings in this cause. Also that said Edwin M. Westbrook have and recover of said defendants, Gridley, Beebe, Schneider, and Schneider, the costs of this cause, to be taxed by the clerk, and that execution issue therefor. Thereupon the said Gridley, Beebe, Schneider, and Schneider, prayed an appeal to the Supreme Court of the United States, which is allowed to them.

Defendants give notice of appeal; and pl'ffs, Westbrook and Page, by McKinlay, their counsel, waive any more formal notice of appeal or bond in this court.

J. M. LOVE.

[30] Mr. Grant then filed—

Bill and Cross-bill.

In U. S. District Court, at Dubuqe, Iowa.

E. M. WESTBROOK
v.
RUEL C. GRIDLEY et al.

RUEL C. GRIDLEY et al.
v.
E. M. WESTBROOK et al.

It is agreed that Ruel C. Gridley and others may take an appeal in this cause to the Supreme Court of the United States without entering a formal notice of appeal, or filing any appeal bond; and that all papers used in the court below shall be transcribed for the use of the court above.

Jan., 1859.

GRANT,
For Gridley and others.
McKINLAY & BARKER,
For Westbrook and others.

United States District Court of Iowa, held at Dubuque.

E. M. WESTBROOK
v.
RUEL C. GRIDLEY and others. } Bill.

RUEL C. GRIDLEY and others
v.
E. M. WESTBROOK. } Cross-bill.

James Grant makes oath that he has a personal knowledge of the location of the land in dispute, and the value thereof, and that the amount in controversy in these suits exceeds the sum of two thousand dollars.

JAMES GRANT.

6 Jan'y, 1859.

STATE OF IOWA, *Scott County.*

This day appeared before me, a notary public in and for Scott county, James Grant, to me personally known to be the
[31] identical person who made and subscribed the foregoing affidavit, and being by me duly sworn, made oath that the same was true, and signed the same in my presence.

[L. S.] Given under my hand and seal notarial, this 6 Jan'y, 1859.

S. F. SMITH,
Notary Public, Scott County, Iowa.

Endorsed: Filed Jan. 10th, 1859.
J. C. BURNS, *Clerk.*
By M. McLAUGHLIN, *Deputy.*

DISTRICT OF IOWA,
Northern Division.

I, J. C. Burns, clerk of the district court of the United States for the district of Iowa, certify that the foregoing is a true, correct and examined transcript of the record in the causes therein named, as the same appear of record in my office.

In witness whereof, I hereto sign my name and affix the seal of said court, in Dubuque, this 19th day of January, 1859.
[SEAL.]
J. C. BURNS, *Cl'k.*
By M. McLAUGHLIN, *Deputy.*

[32] Supreme Court of the United States.

RUEL C. GRIDLEY, CLARISSA H. BEEBE, Sarah P. Snyder, Charles Snyder, Appellants,
vs.
EDWIN M. WESTBROOK, MARGARET WELLS, James McCoy, and James P. Gage, Appellees.

From the district of Iowa.

The counsel for the respective parties agree that the bill and cross-bill in this cause were tried upon the evidence, exhibits, and agreements referred to in the foregoing record, and upon any evidence which was pertinent to this cause, on file in the case of Wyant v. Gridley and others, which latter cause is now pending in the United States Supreme Court—Gridley and others,